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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			DESIR, PIERRE LOUIS	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/027,895	PIRKOLA ET AL.	
	Examiner	Art Unit	
	Pierre-Louis Desir	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

Response to Arguments

2. Applicant's arguments filed on 07/31/2007 have been fully considered but they are not persuasive.

Applicants argue that there is a major distinction between the practice of the Tuomela system and the practice of the system of the presently claimed invention in that the calling party, if he is located at a great distance from the called party, may have to establish a communication link half way around the world, all the way to the called party's answering machine, which intercepts the call just before the called party picks up the handset, whereas in the practice of the system disclosed in the present specification there is no need for a calling party to have to call half way around the world to find out if this is a good time to call the called party since all the necessary information is available locally.

In response, Examiner fails to see the relevance of this argument since there is no such language in the claim's language. Applicants have not showed how the present claimed invention differs from the cited reference.

In addition, Applicants argue that passages from the specification and the drawings demonstrate how the practice of the present invention is able to give a calling party the necessary data of the called party at the early stages of the communication process, and in contradiction to the teachings of Tuomela who requires one to reach the phone equipment of the called party before any data about the called party becomes available to the calling party.

In response, Examiner wants to remind applicants that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Objections

3. Claim 4 is objected to because of the following informalities: "...the activity log of a the receiving party." Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 7-12, and 14-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Tuomela et al. (Tuomela) (US Patent Application Publication US-2001/0031633-A1).

Regarding claim 1, Tuomela discloses a method for establishing and making a check for a communications connection, the method comprising: establishing among a group of parties a context-based file that records activity status of each member of the group, the file arrangement comprising an activity status server (WAP server 7, Figure 2) and a plurality of activity logs connected to the server, the activity logs being in communication with the phones of respective ones of the parties (see paragraph 0019, and claim 5 of Tuomela); setting up an electrical communications connection between of calling party of said group of parties and a receiving party of said group of parties (Figure 2); wherein before establishment of a communications connection with the receiving party, the server provides the calling party with an activity log enabling the calling party to make a check from the activity log of a receiving party to obtain information concerning the ability of the receiving party to receive a message (call) sent by the calling party; and based on that information, there is a making of a decision about the establishment of the communications connection proper (for example: a user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user

interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 24-33). Thus, before an attempt to establish the communications connection proper with the receiving party (i.e., before the system is instructed to put the call through), the calling party makes a check (i.e., examining the different options) of the context, and if the call is urgent to put the call through.

Regarding claim 2, Tuomela discloses everything claimed as applied above (see claim 1). In addition, Tuomela discloses that the check for the calling party concerning the ability of the receiving party to receive the message (call) of the calling party includes steps of: dialing the receiving party's number, (Figure 2, element 1) fetching the activity status data of the receiving party (context information) from an activity log (at WAP context server 7), (Figure 2, element 2; page 1, paragraphs 0009-0010) presenting possible options of action (page 2, paragraphs 0024-0031) and selecting the best of them ("preferred selection"), (page 2, paragraphs 0022 and 0033) examining whether the option of action is possible, and (The list presented to the calling party, shown in paragraphs 0026-0031, are "possible" options. It is the calling party who "examines" these options.) the communications connection proper is established if the option of action is found possible. (If the calling party chooses, for example, "put the call through now", paragraph 0031, then the proper communications connection is established.)

Regarding claim 3, Tuomela discloses everything claimed as applied above (see claim 2). In addition, Tuomela et al. discloses that the data (context information) representing the activity status of the receiving user are fetched from an activity status server (WAP server 7; Figure 2). (See paragraphs 0009 and 0019.)

Regarding claim 7, Tuomela discloses everything claimed as applied above (see claim 1). In addition, Tuomela et al. discloses that the communications connection proper is a telephone connection ("phone call" - Figure 2, element 1; "incoming call" - abstract, line 4).

Regarding claim 8, Tuomela discloses everything claimed as applied above (see claim 1). In addition, Tuomela discloses that the communications connection proper is a text message ("SMS message", "e-mail" - paragraph 0036, lines 4-5).

Regarding claim 9, Tuomela discloses a communications connection set-up and checking arrangement for a plurality of calling parties and a receiving party (Figure 2), comprising a terminal of one calling party of the plurality of calling parties (left-side 10, Figure 2), a terminal of the receiving party (right-side 10, Figure 2), an electrical communications connection between the two parties (call), and a plurality of user-specific activity logs ("context information") (See paragraphs 0009-0010, 0015-0016, 0019, and claim 1 of Tuomela et al.); a context-based file arrangement comprising an activity status server; and wherein said plurality of activity logs is connected to the server, the activity logs being in communication with the phones of respective ones of the calling parties and the receiving party to enable a calling party to communicate with activity status server, wherein before establishment of a communication connection with the receiving party, the server provides the calling party with an activity log enabling the calling party to check from the activity log of a receiving party the ability of the receiving party to receive a message sent by the calling party (for example: a user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the

context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or **instructing the system to put the call through** (see paragraphs 9, 19, and 24-33). Thus, before an attempt to establish the communications connection proper with the receiving party (i.e., before the system is instructed to put the call through), the calling party makes a check (i.e., examining the different options) of the context, and if the call is urgent to put the call through.

Regarding claim 10, Tuomela discloses everything claimed as applied above (see claim 9). In addition, Tuomela discloses wherein the activity status server is separate from phones of respective ones of the calling parties (WAP server 7, Figure 2) (See paragraph 0019, and claim 5 of Tuomela et al.).

Regarding claim 11, Tuomela discloses everything claimed as applied above (see claim 9). In addition, Tuomela et al. discloses that the activity logs are files in the activity status server (Since it is stored in a storage unit it is a "file" as claimed; see paragraph 0009. The WAP-based message is transferred from WAP server 7 to caller's phone equipment; see paragraphs 0013 and 0008. See also, e.g., claim 10 of Tuomela et al.).

Regarding claim 12, Tuomela et al. discloses everything claimed as applied above (see claim 9). In addition, Tuomela et al. discloses that the activity log is a file in the terminal of the user (context information is stored in the user's phone. See paragraph 0009, and claim 4 of Tuomela et al. Since it is stored in a storage unit it is a "file" as claimed).

Regarding claim 14, Tuomela et al. discloses a cellular network (Figure 3) comprising terminals (MS 10), base stations (BTS 5), base station controllers (BSC 4) and switching centers (MSC 3), which communicates with each other; an activity status server (WAP SERVER 7) for storing a user-specific activity log. (See paragraphs 0034 and 0019). The cellular network serving as a communications connection set-up and checking arrangement for a plurality of calling parties and a receiving party (Figure 2), the communications connection set-up and checking arrangement comprising a terminal of one calling party of the plurality of calling parties (left-side 10, Figure 2), a terminal of the receiving party (right-side 10, Figure 2) and an electrical communications connection between the two parties (call), which arrangement further comprises activity logs ("context information") (See paragraphs 0009-0010, 0015-0016, 0019, and claim 1 of Tuomela et al.); wherein the communications connection includes a context-based file arrangement comprising an activity status server; and said plurality of activity logs is in communication with the server, and the activity logs are in communication with the phones of respective ones of the calling parties and the receiving party to enable a calling party to communicate with the activity status server, wherein before establishment of a communication connection with the receiving party, the server provides the calling party with an activity log enabling the calling party to check from the activity log of the receiving party the ability of the receiving party to receive a message sent by the calling party (for example: a user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways

(e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or **instructing the system to put the call through** (see paragraphs 9, 19, and 24-33). Thus, before an attempt to establish the communications connection proper with the receiving party (i.e., before the system is instructed to put the call through), the calling party makes a check (i.e., examining the different options) of the context, and if the call is urgent to put the call through.

Regarding claim 15, Tuomela et al. discloses everything claimed as applied above (see claim 14). In addition, Tuomela et al. discloses that the activity status server (7) is connected with a switching center (3). (See Figure 3).

Regarding claim 16, Tuomela et al. discloses a cellular network terminal (MS 10) comprising a means for entering data (keypad 16) in the terminal, data display means (display 14), data transmission means (transmitter 20), data reception means (receiver 22), memory unit (memory 13) and a control unit (MCU 12); wherein the terminal further comprises an activity status monitoring means (CSU 26). (See Figure 3, paragraphs 0037-0040, and 0015), and the terminal is operative upon connection with a cellular network, the cellular network serving a plurality of calling parties and a receiving party (Figure 2), and wherein the terminal serves one calling party of the plurality of calling parties (left- side 10, Figure 2); and wherein the network includes an activity status server (WAP server 7, Figure 2) of a context-based file arrangement, and said activity status monitoring means is in communication with the activity status server and wherein, before establishment of a communication connection with the receiving party, the

server provides the calling party with an activity log to enable the calling party to check from the activity status server the ability of the receiving party to receive the message sent by the calling party (for example: a user's phone detects or is manually instructed that the user is in a meeting. A phone call then arrives from a calling party. The user's phone does not ring, but instead transfers the user's current context to the calling party (such as by the use of a SMS text or graphical message). Depending on the method used to transfer the context, the calling party may be informed of the context in different ways (e.g., text message, animation, voice message, etc.) In the WAP embodiment, and by example, the calling party is connected to a WAP page that corresponds to the called party. By employing a user interface of the calling parties' phone equipment the calling party is enabled to interact with the WAP page to enter a preferred selection, such as leaving a voice message or instructing the system to put the call through) (see paragraphs 9, 19, and 24-33). Thus, before an attempt to establish the communications connection proper with the receiving party (i.e., before the system is instructed to put the call through), the calling party makes a check (i.e., examining the different options) of the context, and if the call is urgent to put the call through.

Regarding claim 17, Tuomela et al. discloses everything claimed as applied above (see claim 16). In addition, Tuomela et al. discloses that part of the memory (13) of the terminal can be allocated for creating and maintaining a user-specific activity log ("current context"). (See paragraph 0038).

Regarding claim 18, Tuomela et al. discloses everything claimed as applied above (see claim 16). In addition, Tuomela et al. discloses that part of a SIM card ("removable SIM"),

connected with the terminal, can be allocated for creating and maintaining a user-specific activity log ("subscriber-related information"). (See paragraph 0038).

Regarding claim 19, Tuomela et al. discloses everything claimed as applied above (see claim 16). In addition, Tuomela et al. further discloses means for displaying (14) activity status data for the receiving party fetched from an activity status server (WAP server 7). (See paragraphs 0024-0025 and 0019).

Regarding claim 20, Tuomela et al. discloses everything claimed as applied above (see claim 19). In addition, the mode or means employed by the user to activate or enable context-sensitive answering read, as the claimed "means for making a decision about whether a communications connection proper will be established" because when enabled it "makes a decision about" whether to establish the proper communications connection. (See paragraphs 0016-0017).

Regarding claim 21, Tuomela et al. discloses everything claimed as applied above (see claim 1). The process of creating a context-based data is inherently performed by software means" or, simply, software (e.g. see "operating program", paragraph 0038). Which software means comprising a computer readable medium having a program arranged so as to realize the steps of the method according to claim I (explained above).

Regarding claim 22, Tuomela et al. discloses everything claimed as applied above (see claim 21). In addition, the application program (operating program) is stored on a data transfer medium, in the memory (13) of a terminal, on a SIM card of a terminal, or in a cellular network device. (See paragraph 0038).

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tuomela et al. (US Patent Application Publication US-2001/0031633-A1).

Regarding claim 13, Tuomela et al. discloses everything claimed as applied above (see claim 9). In addition, Tuomela et al. further discloses a user profile editing function (the user can input or "edit" current context information by means of a keypad 16; paragraph 0008, lines 8-10, paragraph 0015, last three lines, paragraph 0040, lines 3-4, and claim 3 of Tuomela et al., inter alia) and an activity status application function ("operating program", paragraph 0038).

However, Tuomela et al. fails to specifically disclose an activity status decoding function as claimed.

Tuomela et al. teaches that the activity status (current context information) is transferred to the calling party (caller's phone) in the form of a code that identifies one of a set of animations stored in the caller's phone for selecting an appropriate one to be displayed to the caller (paragraph 0018, lines 14-18). The animation can depict the current activity of the called party (receiving party), for example, in a meeting, on a train, etc. (paragraph 0018, lines 8-10). Thus, Tuomela et al. suggests, "an activity status decoding function" as, claimed because the transferred code is matched with an appropriate animation. One advantage of this is that animations can be language independent (paragraph 0018, lines 12-13).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide Tuomela et al. with "an activity status decoding function" because it would enable a language independent feature as suggested by the same Tuomela et al.

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuomela et al. (US Patent Application Publication US-2001/0031633-A1) in view of Silverman (US Patent Number 6,035,031).

Regarding claim 4, Tuomela et al. discloses a method for establishing and making a check for a communications connection, the method comprising: establishing among a group of parties a context-based file that records activity status of each member of the group, the file arrangement comprising an activity status server (WAP server 7, Figure 2) and a plurality of activity logs connected to the server, the activity logs being in communication with the phones of respective ones of the parties (see paragraph 0019, and claim 5 of Tuomela); setting up an electrical communications connection via the server between a calling party of said group of parties and receiving party of said group of parties (Figure 2), the method comprising a step of establishing a context-based file arrangement comprising an activity status server (WAP server 7, Figure 2) and a plurality of activity logs connected to the server, the activity logs being in communication with the phones of respective ones of the calling parties (see paragraph 0019, and claim 5 of Tuomela et al.); in which method before establishment of a communications connection proper with the receiving party, the server provides the calling party with an activity log enabling the calling party to make a check from the activity log of the receiving party to obtain information concerning the ability of the receiving party to receive a message (call) sent by the calling party and, ("check context information", see Figure 2, element 2; see also page 1, paragraph 0010, and paragraph 16) based on that information, there is a making of a decision about the establishment of the communications connection proper. (for example: a decision is made between leaving a message for the user, or causing the call to ring the user's phone, see

page 1, paragraph 0008, especially the last three lines; and the abstract). The "context information" indicates a receiving party's activity, place or location and/or environment; see pages 1-2, paragraphs 0015-0016 and 0019.

In addition, Tuomela et al. discloses that the check for the calling party concerning the ability of the receiving party to receive the message (call) of the calling party includes steps of: dialing the receiving party's number, (Figure 2, element 1) fetching the activity status data of the receiving party (context information) from an activity log (at WAP context server 7), (Figure 2, element 2; page 1, paragraphs 0009-0010) presenting possible options of action based on the activity status data of the log (page 2, paragraphs 0024-0033) and selecting the best of the possible options ("preferred selection"), (page 2, paragraphs 0022-0033) examining whether the option of action is possible, and (The list presented to the calling party, shown in paragraphs 0026-0031, are "possible" options. It is the calling party who "examines" these options.) The communications connection proper is established if the option of action is found possible. (If the calling party chooses, for example, "put the call through now", paragraph 0031, then the proper communications connection is established.)

However, Tuomela et al. fails to specifically disclose that if the option of action decided upon (e.g. call) is impossible to carry out, there is a step of checking whether the option of action can be carried out later.

Silverman discloses method wherein if the option of action decided upon (call) is impossible to carry out, it is checked whether the option of action can be carried out later (call-back). If the call is impossible to carry out "it is checked whether" a call-back can be carried out later. See column 3, lines 11-30 of Silverman.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Tuomela et al., if the option of action decided upon is impossible to carry out, so as to check whether the option of action can be carried out later, because this would enable the users to communicate in spite of present unavailability of the called party.

Regarding claim 5, Tuomela et al. And Silverman disclose everything claimed as applied above (see claim 4). However, they fail to specifically disclose that if the option of action can be carried out later, the data representing the activity status of the receiving party are fetched again after a time delay.

Silverman discloses to perform the call-back within a time delay (timer value); see column 3, lines 30-50. The callback includes making a phone call to the called party (receiving party); column 3, lines 61-62.

Tuomela et al. discloses that upon a phone call (Figure 2, element 1 of Tuomela et al.), the activity status (context information) of the receiving party are fetched (Figure 2, element 2 of Tuomela et al.). Which in combination with Silverman's callback is "fetched again after a time delay".

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Tuomela et al., if the option of action can be carried out later, so that the data representing the activity status of the receiving party are fetched again after a time delay, because this would provide the calling party with updated information about the called party since the time elapsed from the first original call to a second successful call can be significant.

Regarding claim 6, Tuomela et al. and Silverman disclose everything claimed as applied above (see claim 4).

However, Tuomela et al. fails to specifically disclose that if the option of action decided upon cannot be carried out after a time delay, a communications connection proper is not established.

Silverman further discloses that if the option of action decided upon (call-back) cannot be carried out after a time delay (timer value), a communications connection proper is not established. For example, the call-back timer value can be set to 30 minutes. If the timer value expires the call-back is terminated and the communications connection proper is not established. See column 3, lines 35-45 of Silverman.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Tuomela et al., if the option of action decided upon cannot be carried out after a time delay, so that a communications connection proper is not established, because the wait is too long after the time delay (timer) expires.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Louis Desir whose telephone number is (571) 272-7799. The examiner can normally be reached on Monday-Friday 8:00AM- 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Pierre-Louis Desir
01/21/2008


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SUPERVISOR EXAMINER